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PROJECT NO. 51871

REVIEW OF THE ERCOT SCARCITY
PRICING MECHANISM

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PUBLIC UTILITY COMMISSION

OF TEXAS

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**STEERING COMMITTEE OF CITIES SERVED BY ONCOR AND TEXAS
COALITION FOR AFFORDABLE POWER'S JOINT COMMENTS REGARDING THE
PROPOSAL FOR PUBLICATION OF AMENDMENTS TO § 25.505 AS APPROVED AT
THE MAY 6, 2021 OPEN MEETING**

The Steering Committee of Cities Served by Oncor (OCSC) and the Texas Coalition for Affordable Power (TCAP) jointly submit these Comments to the Public Utility Commission of Texas (Commission) concerning the Proposal for Publication of amendments to 16 Texas Administrative Code (TAC) § 25.505, relating to Reporting Requirements and the Scarcity Pricing Mechanism in the Electric Reliability Council of Texas (ERCOT) Power Region, in Project No. 51871, *Review of the ERCOT Scarcity Pricing Mechanism*. At the March 5, 2021 Open Meeting, the Commission directed Commission Staff to open a project to evaluate whether the Commission should amend its rules to adjust the low system-wide offer cap (LCAP) prior to this summer. The Commission further requested comments from interested parties addressing this question. As a result of the initial and reply comments filed by multiple stakeholders, the Commission filed on May 6, 2021 its Proposal for Publication of Amendments to § 25.505 as Approved at the May 6, 2021 Open Meeting, and requested comments from interested parties to be filed by June 3, 2021. Therefore, these Comments are timely filed.

I. COMMENTS

OCSC's and TCAP's interest in the matters at issue in this Project arise from their dual role as both electric consumers in their own right, procuring power in the deregulated retail market for crucial public functions such as fire, police, and water service, and as advocates on behalf of the retail customers who reside or do business within their corporate limits. Winter Storm Uri represented one of the most significant challenges to the ERCOT market since the market opened, and put tremendous strain on the ability of municipalities and other political subdivisions to provide for public health, safety, and welfare. The financial ramifications also continue to play out, with cities presented with retail electric bills that challenge city finances. OCSC's and TCAP's interests in this rulemaking stem from these concerns and from their experience during

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Winter Storm Uri. The rule changes at issue in this Project speak to a number of those concerns, and though the changes presented are technical and complex, the financial impact of this year's winter event on the market, and by extension, consumers, should be kept in mind.

OCSC and TCAP generally agree with the Commission's Proposal for Publication. Specifically, OCSC and TCAP agree with the modification of the LCAP formula, where the LCAP will be set at \$2,000 per MWh and \$2,000 per MW per hour, removing the option for the LCAP to be set at 50 times the natural gas price index value determined by ERCOT. During Winter Storm Uri, the alternative formulation allowing the LCAP to be set at 50 times the natural gas price index value determined by ERCOT would have produced extreme prices in some instances well in excess of the LCAP in a manner that was never intended—the LCAP was meant to serve as a protection for load. OCSC and TCAP support the removal of that alternative formulation, resulting in an LCAP formula where the LCAP will be set at \$2,000 per MWh and \$2,000 per MW per hour. 16 TAC § 25.505(g)(6)(D) dictates that the system-wide offer cap will be set to this LCAP for the remainder of the calendar year once the peaker net margin exceeds the threshold established in subparagraph (C). Holding the system-wide offer cap at the revised LCAP for the remainder of the calendar year is an important market policy providing greater certainty for consumers. However, the proposed rule amendment language is unclear regarding the proposed new subsection, 16 TAC § 25.505(g)(7), Reimbursement for Operating Losses During an Event when the LCAP is in Effect.

Pursuant to 16 TAC § 25.505(g)(6) and as mentioned above, the LCAP only becomes relevant once the peaker net margin threshold stated in 16 TAC § 25.505(g)(6)(C) is met during a calendar year. In that instance, the system-wide offer cap is to be set at the LCAP for the remainder of that calendar year.¹ Thus, the rules do not prescribe that the LCAP be in effect for an "event," but instead, for a much longer period of time—the remainder of the calendar year once the peaker net margin threshold is met.

The current proposed rule amendment language, however, contemplates reimbursement to resource entities for any actual marginal costs in excess of real-time revenues *during an event when the system-wide offer cap is set to the LCAP*. As previously stated, the LCAP would be in effect for a period of time—the remainder of the calendar year once the peaker net margin

¹ 16 Texas Administrative Code § 25.505(g)(6)(D) (TAC).

threshold is met. OCSC and TCAP do not disagree with the overall policy driving the proposed new subsection—that resource entities should recover costs during certain events in which they are required to operate to contribute to grid reliability. However, the current language of the proposed new subsection does not clearly accomplish that policy goal, and the term “event” is undefined. The proposed rule amendment language is ambiguous in its reference to “*an event* when the system-wide offer cap is set to the LCAP” [emphasis added]. Reimbursing resource entities for actual marginal costs in excess of real-time revenue for the duration of a qualifying *event* could be feasibly implemented, and the policy implications support this action. However, reimbursing resource entities for actual marginal costs in excess of real-time revenue for the duration of a *calendar year* once the peaker net margin threshold is met is much less plausible, and OCSC and TCAP are unclear of any policy reason driving reimbursement to resource entities in that instance. However, as currently written, this is what the proposed rule amendment language seems to propose.

Additional language is needed to clarify that the proposed new subsection intends to direct ERCOT to reimburse resource entities for actual marginal costs in excess of real-time revenues incurred during isolated, qualifying events, to incentivize generation during these events; but it does *not* intend that ERCOT reimburse resource entities for actual marginal costs in excess of real-time revenues incurred during the remainder of a calendar year once the peaker net margin threshold is met. Doing so would effectively uplift the cost of that reimbursement to all market participants, with no policy justification for why that reimbursement is necessary. An overly expansive allowance for recovery of costs, such as the one currently proposed by the Commission in this Project, may shift financial risk unnecessarily from generators to customers. OCSC and TCAP recommend that the Commission amend the proposed rule language and consider tailoring 16 TAC § 25.505(g)(7) to apply only to a qualifying event-based LCAP with a specified timeframe.

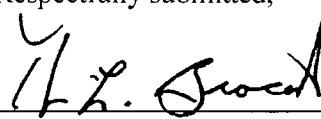
Although OCSC and TCAP propose tailoring 16 TAC § 25.505(g)(7) to allow generators to recover actual marginal costs in excess of real-time revenues incurred only during isolated, qualifying events, OCSC and TCAP support the provision setting the LCAP at \$2,000 per MWh and \$2,000 per MW per hour for the remainder of a calendar year once the peaker net margin threshold stated in 16 TAC § 25.505(g)(6)(C) is met. The Texas Legislature just recently passed

House Bill 4492,² which among other things, aims to make generators whole for their provision of service in the ERCOT market. Given that the Legislature has already acted to protect the generation sector in House Bill 4492, OCSC and TCAP believe the best policy is to follow the rules of the Commission in holding the system-wide offer cap at the revised LCAP for the remainder of the calendar year, thereby providing certainty and confidence to consumers.

OCSC and TCAP appreciate the opportunity to submit these Comments to the Commission.

Dated: June 3, 2021

Respectfully submitted,



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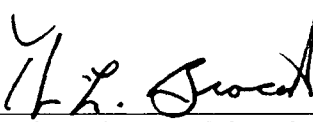
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ATTORNEYS FOR STEERING COMMITTEE OF
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² House Bill 4492 was passed on May 31, 2021, but is not law until it is signed by the Governor.

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on June 3, 2021, in accordance with the Order Suspending Rules, issued in Project No. 50664.



THOMAS L. BROCATO